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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12 CARL ALEXANDER WESCOTT,

13 Plaintiff,

14 v.

15 MONETTE STEPHENS and MICHELLE  
16 HARRIS,

17 Defendants.

Case No.: 3:17-CV-05837-WHO

**DEFENDANT MICHELLE HARRIS'S  
NOTICE OF MOTION AND MOTION  
TO STRIKE SUR-REPLY PURSUANT  
TO FRCP 12(F) AND REQUESTED  
ORDER THAT PLAINTIFF NOT FILE  
ADDITIONAL PAPERS**

Date: April 4, 2018  
Time: 2:00 p.m.  
Courtroom: 2, 17<sup>th</sup> Floor  
Judge: William H. Orrick

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20 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

21 NOTICE IS HEREBY GIVEN that on the above date, time and location, Defendant Michelle  
22 Harris (“Harris”) will move for an order striking Plaintiff Carl Wescott’s (“Plaintiff”) “Motion for Leave  
23 to File Sur-Reply (to Reply to Response to Defendant’s Motion to Dismiss)” (hereinafter “Sur-Reply”)  
24 pursuant to Federal Rules of Civil Procedure (“FRCP”) 12(f). Harris’ motion to strike is based on the  
25 following grounds:

- 26 (1) Plaintiff’s motion for leave to file a sur-reply did not comply with Local Rule 7-3;  
27 (2) Plaintiff did identify any new evidence submit by Harris in conjunction with her reply  
28

1 brief, nor did Plaintiff demonstrate a new material issue was raised in Harris' reply brief in support of  
2 Harris' Motion to Dismiss and Motion to Special Motion to Strike ("Harris' Motion");

3 (3) Plaintiff did not submit a request in writing prior to filing the sur-reply setting forth the  
4 basis for a sur-reply; and

5 (4) Plaintiff improperly filed a sur-reply contemporaneously with the motion for leave to file  
6 a sur-reply.

7 Harris also requests the Court order Plaintiff not submit any additional papers related to Harris'  
8 Motion. The order is appropriate because Wescott has historically demonstrated his utter disregard for  
9 the courts and their procedural boundaries. He was declared a vexatious litigant in California Superior  
10 court due to his habit of manically filing frivolous motions. Wescott will undoubtedly adopt the same  
11 tactics in this Court absent an order he not submit any additional papers.

12 This motion is further based on this Notice, the Memorandum of Points and Authorities, and on  
13 such other oral and documentary evidence as may be presented at the hearing of this matter.

14  
15 Dated: March 20, 2018

MURPHY, PEARSON, BRADLEY & FEENEY

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17  
18 By 

19 Arthur J. Harris  
20 Attorneys for Defendant  
21 MICHELLE L. HARRIS

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**CERTIFICATE OF SERVICE**

I, Maria Diazgranados, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 88 Kearny Street, 10th Floor, San Francisco, California 94108.

On March 20, 2018, I served the following document(s) on the parties in the within action:

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT MICHELLE HARRIS' MOTION TO STRIKE PLAINTIFF'S SUR-REPLY PURSUANT TO FRCP RULE 12(F).**

**DEFENDANT MICHELLE HARRIS'S NOTICE OF MOTION AND MOTION TO STRIKE SUR-REPLY PURSUANT TO FRCP 12(F) AND REQUESTED ORDER THAT PLAINTIFF NOT FILE ADDITIONAL PAPERS**

**[PROPOSED] ORDER GRANTING DEFENDANT MICHELLE HARRIS'S MOTION TO STRIKE PLAINTIFF'S SUR-REPLY AND REQUESTED ORDER PROHIBITING PLAINTIFF FROM FILING ADDITIONAL PAPERS.**

x

**VIA MAIL:** I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at San Francisco, California on this date, addressed as listed below.

Carl Alexander Wescott  
P.O. Box 190875  
San Francisco, CA  
E-mail: c@carlawescott.com  
Phone: (415) 335-5000

Attorney For Plaintiff in Propria Persona

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on March 20, 2018.

By: Maria Diazgranados  
Maria Diazgranados